

## **§ 61.301**

## **20 CFR Ch. I (4–1–15 Edition)**

until the employee's death is in fact established or can be legally presumed to have occurred. A part of the compensation accruing to the employee may be disbursed during the period of absence to the employee's dependents.

(c) During the period of absence of any employee detained by a hostile force or person, detention benefits shall be credited to the employee's account at one hundred percent of his or her average weekly wages. The average weekly wages may not exceed the average weekly wages paid to civilian employees of the United States performing the same or most similar employment in that geographic area. If there are eligible dependents, the Office may pay to these dependents seventy percent of the credited benefits.

(d) The Office may not pay detention benefits under any of the following conditions:

(1) The employee resides at or in the vicinity of the place of employment, does not live there solely due to the exigencies of the employment, and is detained under circumstances outside the course of the employment.

(2) The person detained is a prisoner of war detained or utilized by the United States.

(3) Workers' compensation benefits from any other source or other payments from the United States are paid for the same period of absence or detention.

(4) The person seeking detention benefits is a national of a foreign country and is entitled to compensation benefits from that or any other foreign country on account of the same absence or detention.

(5) The employee has been convicted in a court of competent jurisdiction of any subversive act against the United States or any of its allies.

### **§ 61.301 Filing a claim for detention benefits.**

(a) A claim for detention benefits shall contain the following information: Name, address, and occupation of the missing employee; name, address and relation to the employee of any dependent making claim; name and address of the employer; contract number under which employed; date, place and circumstances of capture or detention;

date, place and circumstances of release (if applicable). The employer shall provide information about the circumstances of the detention and the employee's payrate at the time of capture. Dependents making claim for detention benefits may be required to submit all evidence available to them concerning the employment status of the missing person and the circumstances surrounding his or her absence.

(b) A claim filed by a dependent or by the employee upon his or her release should be sent with any supporting documentation to the U.S. Department of Labor, Office of Workers' Compensation Programs, Branch of Special Claims, P.O. Box 37117, Washington, DC 20013-7117.

### **§ 61.302 Time limitations for filing a claim for detention benefits.**

The time limitation provisions found in the Federal Employees' Compensation Act, as amended (5 U.S.C. 8101 *et seq.*) apply to the filing of claims for detention benefits. The Office may waive the time limitations if it finds that circumstances beyond the claimant's control prevented the filing of a timely claim.

### **§ 61.303 Determination of detention status.**

A determination that an employee has been detained by a hostile force or person may be made on the basis that the employee has disappeared under circumstances that make detention appear probable. In making the determination, the Office will consider the information and the conclusion of the Department or agency of the United States having knowledge of the circumstances surrounding the absence of the employee as prima facie evidence of the employee's status. The presumptive status of total disability of the missing person shall continue during the period of the absence, or until death is in fact established or can be legally presumed to have occurred.

### **§ 61.304 Limitations on and deductions from detention benefits.**

(a) In determining benefits for detention, the Office shall not apply the minimum limits found in sections 6(b)

and 9(e) of the Longshore and Harbor Workers' Compensation Act.

(b) If any employee or dependent receives or claims wages, payments in lieu of wages, or insurance benefits for the period of detention, and the cost of the wages, payments or benefits is provided in whole or in part by the United States, the Office shall credit the amount of the benefits against any detention payments to which the person is entitled under the Act. The Office shall apply credit only where the wages, payments, or benefits received are items for which the contractor is entitled to reimbursement from the United States, or where they are otherwise reimbursable by the United States.

**§ 61.305 Responsibilities of dependents receiving detention benefits.**

A dependent having knowledge of a change of status of a missing employee shall promptly inform the Office of the change. The Office must be advised immediately by the dependent if the employee is returned home or to the place of his or her employment, or is able to be returned to the jurisdiction of the United States.

**§ 61.306 Transportation of persons released from detention and return of employees.**

(a) The Office may furnish the cost of transporting an employee from the point of the employee's release from detention to his or her home, the place of employment, or other place within the jurisdiction of the United States. The Office shall not pay for transportation if the employee is furnished the transportation under any agreement with his or her employer or under any other provision of law.

(b) The Office may furnish the cost of transportation under circumstances not involving detention, if the furnishing of transportation is an obligation of the United States or its contractor, and the United States or its contractor fails to return the employee to his or her home or to the place of employment.

**§ 61.307 Transportation of recovered bodies of missing persons.**

If an employee dies while in detention and the body is later recovered, the Office may provide the cost of transporting the body to the home of the deceased or to any place designated by the employee's next of kin, near relative, or legal representative.

**Subpart E—Miscellaneous Provisions**

**§ 61.400 Custody of records relating to claims under the War Hazards Compensation Act.**

All records, medical and other reports, statements of witnesses and other papers filed with the Office with respect to the disability, death, or detention of any person coming within the purview of the Act, are the official records of the Office and are not records of the agency, establishment, Government department, employer, or individual making or having the care or use of such records.

**§ 61.401 Confidentiality of records.**

Records of the Office pertaining to injury, death, or detention are confidential, and are exempt from disclosure to the public under section 552(b)(6) of title 5, U.S. Code. No official or employee of the United States who has investigated or secured statements from witnesses and others pertaining to any case within the purview of the Act, or any person having the care or use of such records, shall disclose information from or pertaining to such records to any person, except in accordance with applicable regulations (see 29 CFR part 70a).

**§ 61.402 Protection, release, inspection and copying of records.**

The protection, release, inspection and copying of the records shall be accomplished in accordance with the rules, guidelines and provisions contained in 29 CFR parts 70 and 70a and the annual notice of systems of records and routine uses as published in the FEDERAL REGISTER.